

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SUBREGION THIRTY-THREE**

BFI WASTE SERVICES, LLC

Employer1/

and

GENERAL DRIVERS AND HELPERS,
TEAMSTERS LOCAL 421, AFFILIATED WITH THE
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Petitioner1/

DECISION AND DIRECTION OF ELECTION

33-RC-4676

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding2/, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.3/

3. The labor organization(s) involved claim(s) to represent certain employees of the Employer.4/

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:5/

All full-time and regular part-time mechanics, driver/container repair persons, front load truck drivers, rear load truck drivers, helpers, roll off drivers, container delivery truck drivers, lead person, fork lift operators, balers, bobcat operators, loader operators, transfer trailer drivers, and sort line employees engaged in the hauling and handling of refuse and recyclables and operating equipment out of the Employer's Dubuque, Iowa operation, but excluding customer service employees, office clerical employees, temporary employees, guards, managers and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations.^{6/} Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by General Drivers and Helpers Union, Teamsters Local 421, affiliated with the International Brotherhood of Teamsters.

LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. **Excelsior Underwear, Inc.**, 156 NLRB 1236 (1966); **N.L.R.B. v. Wyman-Gordon Company**, 394 U.S. 759 (1969).^{7/} Accordingly, it is hereby directed that within 7 days of the date of this Decision two copies of an election eligibility list, containing the names and addresses of all the eligible voters, shall be filed by the Employer with the Officer-in-Charge for Subregion 33 who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the *33rd Subregion, Hamilton Square, 300 Hamilton Boulevard, Suite 200, Peoria, Illinois, 61602*, on or before April 26, 2002. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by May 3, 2002.

Dated April 19, 2002
at: Peoria, Illinois

/s/ Ralph R. Tremain
Ralph R. Tremain, RD – Region 14

1/ The parties stipulated to their correct names and that all documents should be amended to reflect the proper names. The Employer's and the Petitioner's names appear as stipulated. I have administratively noted and added the Petitioner's proper affiliation.

2/ I have carefully considered the record evidence, the parties' statements on the record, arguments on the record and briefs.

3/ The parties stipulated that the Employer is engaged in commerce within the meaning of the National Labor Relations Act and is subject to the jurisdiction of the National Labor Relations Board. The Employer, doing business as BFI Waste Systems of Dubuque at its Dubuque, Iowa facility, is a Delaware corporation engaged in the business of commercial and residential waste hauling and recycling. During the past 12 months, a representative period of time, the Employer grossed revenues in excess of \$500,000. During that same time period, the Employer provided services in excess of \$50,000 directly to customers outside the State of Iowa. There are approximately 37 employees within the unit found appropriate herein.

4/ The parties stipulated that the Petitioner is a labor organization within the meaning of the Act, and I so find.

5/ The sole issue in this case involves the composition of the bargaining unit: whether employees engaged in recycling (fork lift operator, baler operator, bobcat operator, loader operator, sort line employees and transfer trailer driver) should be included in a unit of employees engaged in hauling/maintenance (truck drivers, container delivery persons, and maintenance employees). I find that because the recycling employees share a sufficient community of interest with the hauling/maintenance employees, a unit of both hauling/maintenance and recycling employees constitutes an appropriate unit.

The Parties' Positions

The Petitioner seeks a unit of both hauling/maintenance and recycling employees. Specifically, Petitioner seeks a unit of all full-time and regular part-time mechanics, driver/container repair persons, front load truck drivers, rear load truck drivers, helpers, roll off drivers, container delivery truck drivers, lead person, fork lift operators, baler operators, bobcat operators, loader operators, transfer trailer drivers, and sort line employees engaged in the hauling and handling of refuse and recyclables and operating equipment out of the Employer's Dubuque, Iowa.

The Employer asserts that only those employees engaged in the hauling/maintenance side of the business constitute an appropriate unit. Specifically, the Employer proposes that all full-time and regular part-time mechanics, driver/container repair persons, front load truck drivers, rear load truck drivers, helpers, roll off drivers, container delivery truck drivers and lead person be included in the unit found appropriate herein. The Employer, concedes, however, that if a unit of both the hauling and recycling employees is found to be appropriate, then the transfer trailer driver (also called the semi-truck driver) from the recycling side of the business should be included.¹ Both parties agree that office clerical employees, temporary employees, guards, managers and supervisors as defined in the Act should be excluded from any unit found appropriate herein.

The Employer's Dubuque Operations

The Employer has classified its Dubuque, Iowa facility into two divisions: Division 897 and Division R77. The Employer refers to Division 897 as its "Hauling Operations" and includes customer service (dispatch, sales and accounting),² maintenance (shop), and hauling operations³ The Employer

¹ At the hearing the Employer appeared to stipulate that an employee designated as a "lead person" should be included in the unit. Since that person, Mark Davis, works on the recycling side of the business, this stipulation would seem contrary to the Employer's position that the recycling employees should not be included in the unit. I assume that the Employer meant to stipulate that if the recycling employees are included in the unit, the lead person position, like the transfer trailer driver, should also be included.

² These employees are not in issue in this case, as no one seeks to have them included in the unit.

refers to Division R77 as its recycling operations. Each division has its own profit and loss accounting functions.

Both divisions operate out of the Employer's 6000 square foot building and its surrounding grounds. The building houses the customer service employees in offices, the maintenance employees in the shop, and the recycling employees in the "MRF" (material recycling facility). The building also has a "driver check in" room, and a locker room for the hauling employees, although they spend much of their work time either in the parking area just outside the building or on the road.

Keith Hagan is the General Manager of the Employer's Dubuque operations and, as such, has final authority over both divisions. In addition, Operations Manager John Leach supervises the hauling employees and Maintenance Manager Ed Clancy supervises the maintenance employees. There is temporarily no supervisor of just the recycling employees after the recent departure of the previous supervisor. Even when there has been a separate supervisor for recycling, the Operations Manager has had some authority for scheduling employees for physicals and occasionally granting sick leave.⁴

1. The Hauling Operation

A. Function

The hauling operation provides traditional garbage pickup at commercial and residential locations throughout the Dubuque area. On the commercial side, the Employer places waste removal containers at the customer's location. These containers are emptied by the Employer on scheduled pick up routes and the waste is hauled to the Dubuque County landfill, about four miles from the

³ In the diagram of its corporate structure, the Employer uses the designation "hauling operations" twice. For purposes of this decision, the term "hauling" refers only to those employees in Division 897 engaged in actual hauling (i.e., truck drivers and helpers) and the term "hauling/maintenance" refers to those employees in Division 897 who the parties agree should be in the unit.

⁴ The parties stipulated that Hagan, Leach and Clancy have authority to hire, fire, transfer, layoff and recall employees or to effectively recommend the same. Accordingly, I find that Hagan, Leach and Clancy are supervisors within the meaning of Section 2(11) of the Act.

Employer's facility. On the residential side, the Employer contracts with private residential homeowners as well as municipalities to pick up trash from residential neighborhoods, typically once a week. The Employer takes this trash to the appropriate disposal facility.

The hauling operation also provides collection of recyclable materials from both commercial and residential customers. The Employer has separate routes for recyclable and garbage collection. The drivers pick up plastic, glass, paper, tin and aluminum, which the customers have placed in containers with the Employer's name ("BFI") on them. The recyclables are hauled to the Employer's location for recycling. On average, four drivers drive recycling routes each day.

B. Employees and Equipment

The Employer uses commercial drivers, residential drivers and helpers in its hauling operations. The drivers drive the vehicles and the helpers help the drivers pick up trash on residential routes, particularly in heavily populated areas. Helpers do not typically help with commercial hauling. At the time of the hearing, the Employer employed approximately 25 drivers and three helpers in its hauling operations.

The drivers are required to have a Class B commercial driver's license (CDL). They must renew this license every 4 years. These drivers are subject to the Federal Motor Carriers Safety Regulations Manual. Helpers are not required to have a CDL and they are not subject to the Federal Motor Carriers Safety Regulations Manual. No specialized skills or training appear to be required of the helpers.

The hauling employees use front load trucks, rear load trucks, and roll off trucks for the commercial service; they use primarily rear load trucks for residential service. A front load truck has forks in front of the vehicle. The drivers drive up to the containers, insert the forks, lift the container over the front of the truck and dump it in the back. The rear load trucks operate in the same fashion,

but dump the containers from the back of the truck. (They are used in places that are hard to reach with the front load trucks.) The roll off truck is used to pull the commercial/industrial waste container onto the back of the truck, haul it to the landfill, dispose of the waste, return it to the customer, and roll it off back into place.

2. The Recycling Operation

A. Function

The recycling operation processes recyclable materials received from the Employer or other companies, counties, municipalities, or residential customers. These materials include plastic, glass, paper, tin, aluminum or cardboard. The materials are brought to the facility, usually by truck, and dumped on the "tipping" floor. The truck is removed and the material is pushed into a pile to await processing. If the material is contaminated, that is, mixed in with non-recyclable materials such as garbage, or food or household waste, it is loaded on a conveyor belt and sent to the sort line. On the sort line, the material is separated into different recyclables and waste. The recyclables are compressed into 1000-pound bales, tied with wire, and stacked for shipping, usually by outside contract vendors. The waste is also baled and disposed.

B. Employees and Equipment

The Employer employs a transfer trailer driver, various equipment operators and "pickers" in its recycling operation.⁵ The transfer trailer driver takes an empty trailer to a customer and swaps it for a trailer full of recyclable materials. He drives the recyclable materials to the MRF, where the loader operator or "spotter" assists him and other customers bringing in recyclables by telling them where to dump the product on the tipping floor. The loader operator then piles the material and loads it on the conveyor belt. Temporary employees called "pickers" work on the sort line, removing the recyclables from the contaminated material. The baler operator bales the recyclables and the excess waste. He

⁵ There are six permanent recycling employees and five temporary employees.

also functions as a lead person for the sort line to make sure the pickers are performing their jobs and acts as a liaison between the operators and the maintenance shop. The forklift driver stacks the baled recyclable materials for shipping. The transfer trailer driver removes the baled excess garbage for disposal (presumably to a landfill).

The transfer trailer driver is required to have a Class A CDL in order to drive a semi-tractor trailer. This license must be renewed every four years. The transfer trailer driver is subject to the Federal Motor Carriers Safety Regulations Manual. The forklift operator, baler operator, bobcat operator, and loader operator are not required to hold a CDL. They are trained by the Employer in the operation of their equipment. This training typically takes about one hour. The sort line employees do not appear to require any special licenses, skills or training.

3. The Maintenance Operation

A. Function

Although designated by the Employer as part of the hauling division, the maintenance operation divides its time between supporting the hauling and recycling operations. The maintenance operation maintains and repairs the Employer's vehicles and equipment.⁶ They also maintain, repair and, if necessary, deliver the waste and recyclable containers utilized by their customers. The maintenance employees also retains the maintenance records on all the vehicles and equipment, including the daily vehicle inspection forms completed by the drivers and the equipment inspection forms completed by the equipment operators.

B. Employees and Equipment

The maintenance operation is comprised of a maintenance manager, two mechanics and a container delivery person. The mechanics work primarily on the Employer's trucks and equipment

⁶ The recycling employees encounter and, presumably also are assisted by, the maintenance employees in more routine maintenance situations, such as when the recycling employees come to shop to obtain supplies for their machines, such as oil, grease, or antifreeze.

(including the forklift, baler, bobcat, and loader). The container delivery person is responsible for ensuring that all containers are in proper working order. If necessary, he welds and paints containers, puts lids on them, and delivers them to customers. Because he drives in this latter function, the container delivery person is required to have a Class B CDL, which must be renewed every four years. The container delivery person is also subject to the Federal Motor Carriers Safety Regulations Manual. There is no evidence that the mechanics are required to have any special licenses, skills or training.

4. General Working Conditions

The hauling, recycling and maintenance employees all work Monday through Friday, although their hours of work vary. The hauling drivers and the transfer trailer on the recycling side start work at anywhere from 4:30 a.m. to 6:00 a.m. and do not stop work until they are finished with their routes. Although some recycling employees work a set eight-hour day, others, like forklift operator Cheryl Conley, have different starting and ending times each day. The mechanics typically work 8 or 9-hour days and have set start and finish times.

The little evidence in the record regarding wages shows the employees' wages vary, depending not so much on what division they work in but on what they do. Drivers in the hauling operation average \$13.00 per hour while operators working on the sort line in recycling average anywhere from \$8.50 to 11.50 per hour. Another recycling employee, the transfer trailer driver, however, makes \$15.15 per hour. There is no evidence regarding either the helpers' or the mechanics' wages. All employees⁷ receive time and a half for overtime.

All employees receive two 15-minute paid breaks and one 30-minute paid lunch. They are all required to clock in and out and use the same time clock. All employees wear the same uniform, although some wear different protective equipment depending on their job. As discussed above, all

⁷ For purposes of this discussion, "all employees" refers to hauling/maintenance and recycling employees.

employees use the same locker room and rest rooms, although the drivers also have a "driver check-in" room in the building.

All employees receive the same "new hire" package, outlining their benefits. They all employees receive the same vacation benefit, which is determined by their years of service with the Employer. They all receive the same pension and insurance benefits. All employees receive a \$40.00 boot allowance and all are eligible to receive a safety bonus.

All employees are subject to the same Employer work rules and policies, such as those regarding sexual harassment, drug and alcohol use, and absenteeism. The drivers (including, presumably, the transfer trailer driver on the recycling side) are subject to some additional safety rules. Announcements and changes in policies are posted by the time clock for all employees to see.

Until recently, the Employer had joint meetings of all its employees hauling/maintenance and recycling. Recycling employees Steve Sarazin and Cheryl Conley both testified that they attended meetings with drivers from the hauling operation. Recently, in addition to all-employee meetings, the Employer has conducted more job specific meetings for just drivers and shop employees.

The Employer keeps separate seniority lists: one for hauling and maintenance, one for recycling.⁸ Although seniority is sometimes a factor in granting vacation requests in hauling and maintenance, it is usually not a factor on the recycling side because there are so few employees and, therefore, few conflicting vacation requests. Seniority is also only one factor the Employer considers when awarding jobs. All employees are eligible to bid for jobs in any of the three areas, although preference is usually given to employees currently in the same operation.

⁸ Although, at least two employees, Mark Davis and Steve Sarazin, kept their seniority from the hauling/maintenance when they transferred to recycling.

5. Interchange Between Operations

There has been both permanent and temporary interchange between the hauling and recycling operation. Four employees have transferred between the hauling and recycling operations. Employee Mark Davis was initially hired as a driver in the hauling operation in October 2001. He transferred to recycling in late February or early March 2002 to become a baler operator. Steve Sarazin was hired as driver in hauling in June 1978. In the past four or five years he has driven the transfer trailer in recycling. In the early 1990's, two equipment operators in recycling, Jim and Corey Leach, transferred to the hauling side. They started as helpers and then the Employer helped them earn their CDL so they could become drivers.

There is also temporary interchange of employees between the hauling and recycling operations. Transfer trailer driver Steve Sarazin testified that he has helped in hauling at least two dozen times since November 2000, most recently in the fall of 2001. When he works in hauling, Sarazin drives the roll off truck and the front and rear loaders on waste pick up routes. Sarazin also testified that when he takes his four weeks of vacation from his recycling job, a front load driver from the hauling side, Donnie Fagan, performs his job. Another driver from hauling, Tim Davis, is currently on loan to operate the forklift and the bobcat in recycling.

Forklift driver Cheryl Conley testified that she observed a driver from hauling, Gary Stuart, work light duty in recycling for at least three weeks in winter 1999-2000. She also observed a helper, Pat Ellefson, work in hauling two days a week then the sort line in recycling the remaining three days of the week sometime during the year 2000. Conley testified that Jim Rogers, a temporary employee on the sort line, became a driver in hauling in August or September 2001. Conley also observed Wally Colbertson, a sort line employee and other temporary sort line employees, assigned to be helpers on the hauling side when they were short-handed.

George Flanagan, a mechanic who was Operations Manager from the summer of 1999 until about October 2001, testified that during winter 2000-2001 he sent some employees from hauling to help on the recycling side when it was busy.

DISCUSSION

Section 9(a) of the National Labor Relations Act provides “[r]epresentatives designated or selected for the purposes of collective bargaining by the majority of employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment....” 29 U.S.C. Section 159(a). In making a determination as to whether a petitioned for unit is appropriate, the Board has held that Section 9(a) of the Act only requires that the unit sought by the petitioning union be an appropriate unit for purposes of collective bargaining. Nothing in the statute requires that the unit be the only appropriate unit or the most appropriate unit. Morand Brothers Beverage Co., 91 NLRB 409, 418 (1950) *enfd.* 190 F.2d 576 (7th Cir. 1951). The Act only requires that the unit sought be an appropriate unit for the purposes of collective bargaining. National Cash Register Co., 166 NLRB 173, 174 (1966). It is well settled that there is more than one way in which employees of a given employer may appropriately be grouped for purposes of collective bargaining. See, for example, General Instrument Corp. v. NLRB, 319 F.2d 420, 422-423 (4th Cir. 1963), *cert. denied* 375 U.S. 965.

The Board gives deference to the Union’s petition and first considers whether that unit is appropriate. See Overnight Transportation Company, 322 NLRB 723 (1996); and P.J. Dick Contracting, 290 NLRB 150, 151 (1988). If it is an appropriate unit, the inquiry ends. If not, the Board will scrutinize the Employer’s proposals. See Black and Decker Mfg. Co., 147 NLRB 825, 828 (1964); and Dezcon, Inc., 295 NLRB 109, 111 (1989).

To establish an appropriate bargaining unit, a petitioner must demonstrate that the employees in the petitioned-for unit share a sufficient “community of interest.” If there is a sufficient community of interest, the fact that two or more groups of employees in the petitioned-for unit engage in different process, like here, does not by itself render a combined unit inappropriate. Berea Publishing Co., 140 NLRB 516, 518 (1963). In deciding whether employees share a sufficient community of interest, the Board looks at a variety of factors, including functional integration, employee interchange and contact, similarity of skills, and similarity in wages, hours, benefits and other terms and conditions of employment, common supervision and bargaining history. See J.C. Penney Co., 328 NLRB No. 105 (1999); Armco, Inc., 271 NLRB 350, 351 (1984).

I find that in light of the employees' functional integration, frequency of interchange and contact, similarity of skills, and similarity in wages, hours, benefits and other terms and conditions of employment, that the hauling/maintenance employees and the recycling employees share a sufficient community of interest so that their inclusion in one unit is appropriate.

1. Functional Integration

The degree of functional integration between the hauling/maintenance and recycling employees militates toward a finding that the petitioned-for unit is appropriate. Seaboard Marine Ltd., 327 NLRB 556 (1999). Although separated by the Employer into two divisions, the hauling/maintenance employees and the recycling employees functionally integrated. Both divisions' work together to provide similar and related services to their commercial and residential customers: waste disposal and recycling. For example, in addition to collecting and disposing of waste, the hauling drivers are part of the recycling process. They collect and deliver recyclable materials to the MRF approximately four times a day for further processing. Similarly, the recycling employees are part of the waste disposal process. Once the recyclables are separated from the waste, the waste is baled and disposed of by the trailer transfer driver, a recycling employee. Finally, the maintenance

employees are an integral part of both the waste hauling and recycling as they repair and maintain the vehicles and equipment, including the waste and recycling containers, necessary to complete those processes.⁹

2. Interchange and Contact

The frequent interchange and contact among the hauling/maintenance and recycling employees also favor a finding that the petitioned-for unit is appropriate. J.C. Penney Co., 328 NLRB 766 (1999). There is a frequent temporary and permanent interchange between the hauling/maintenance and recycling employees. Two hauling drivers, Mark Davis and Steve Sarazin, have transferred permanently to recycling and two recycling operators, Jim and Corey Leach, transferred to the hauling side and became drivers. The Employer also frequently moves employees between hauling/maintenance and recycling on a temporary basis to cover vacations, help during busy periods, provide light duty opportunities, or give employees a full workweek.¹⁰

The hauling/maintenance and recycling employees also have frequent contact with each other in performing their jobs. When the hauling drivers bring recyclables to the MRF, they are directed (when necessary) by the loader operators ("spotters"). The recycling employees have contact with the mechanics when they go to the shop for equipment or supplies or to bring their daily equipment maintenance reports. They also encounter the mechanics when their equipment is being repaired. The employees in both hauling/maintenance and recycling see each other at all-employee meetings, in the break rooms or the locker rooms.

⁹ Functional integration between the hauling/maintenance division and the recycling division is not outweighed by the Employer's preference to keep separate, for accounting purposes, each division's profit and loss function. Sears, Roebuck and Co., 66 NLRB 285 (1946).

¹⁰ On brief the Employer's asserts that Sarazin's recent, frequent assistance on the hauling side is voluntary and should be discounted. However, even though mere "non-management employees" may have asked Sarazin to help out in hauling, his time doing so was charged to the hauling division, and so the Employer must have been aware of his efforts over the past

3. Similarity of Skills

The similarity of skills between the hourly/maintenance employees and the recycling employees also supports a finding that they comprise an appropriate unit. Seaboard Marine Ltd., 327 NLRB 556 (1999). Both the hauling/maintenance and the recycling divisions have skilled and unskilled employees. Drivers in both hauling/maintenance and recycling, are required to earn and maintain commercial drivers' licenses. They must also comply with the Federal Motor Carriers Safety Regulations Manual. Both divisions also have jobs that appear to require little to no employee skills or training. No special skills appear to be required for the helpers in hauling, the mechanics in maintenance or the equipment operators and sort line employees in recycling. Although the equipment operators undergo some training on their equipment, that training usually lasts only an hour and is not sufficient to require a finding that specialized training is required to operate equipment.

4. Similarity in wages, hours, benefits and other terms and conditions of employment

The similarity in wages, hours, benefits and other terms and conditions of employment further supports the conclusion that hauling/maintenance and recycling employees constitute an appropriate unit. Allied Gear & Machine Co., 250 NLRB 679 (1980). What little evidence there is regarding the wages of employees in issue appears to support the conclusion that the employees in both divisions are paid within the same general wage range.¹¹ Other benefits, such as pension and health and welfare insurance, overtime, vacations, etc., are the same across the board.

The working hours of the employees in each division are also comparable, with some employees in each division having variable hours (the drivers in hauling and the driver and fork lift

year and a half. Had Sarazin's "voluntary" assistance in hauling not been of benefit to the Employer, it certainly would have put a stop to it.

¹¹ There was no record evidence regarding the wages of helpers, mechanics or the container delivery person and very little regarding the other employees. The record did reveal that drivers on the hauling side earn on average \$13.00 per hour while the recycling driver (transfer trailer driver) makes \$15.15 -- regardless of whether he is working in recycling or hauling. Presumably the helpers make less than the \$13.00 per hour the hauling drivers average, likely closer to the \$8.65 to \$11.50 range earned by recycling employees.

operator in recycling) and others having set hours (the mechanics in hauling and the sort line employees in recycling). Other terms and conditions of employment, however, are the same: employees are required to wear uniforms, punch a time clock, attend meetings, and adhere to the same work rules and labor relations policies.

6. Common Supervision

Although both divisions ultimately report to General Manager Keith Hagan, the hauling, maintenance and recycling employees each have designated supervisors for their areas. Evidence that, in the past, the Operations Manager (hauling supervisor) has had authority to schedule recycling employees for physicals and to grant them sick leave is insufficient to establish that the hauling and recycling employees have common supervision at the first level.

7. Bargaining History

There is no history of bargaining between the parties at this facility involving any or all of the employees.¹² As the Petitioner correctly points out on brief, evidence regarding bargaining units at other facilities of the same Employer is not applicable in determining the appropriateness of the bargaining unit at issue herein. Big Y Foods, 238 NLRB 855 (1978).

CONCLUSION

The hauling/maintenance employees have a community of interest with the recycling employees, as shown by the degree of functional integration, frequency of interchange and contact, similarity of skills, and similarity in wages, hours, benefits and other terms and conditions of employment, sufficient to include both groups in a single unit. Accordingly, a unit combining hauling/maintenance employees and recycling employees is appropriate.

¹² Although on brief the Employer asks the Region to take administrative notice that the Petitioner previously filed a petition to represent the hauling/maintenance employees only, this fact is irrelevant to the issue before me as there was never any bargaining or bargaining history in that or any unit at this Employer facility.

6/ Your attention is directed to Part 103, Subpart B, Section 103.20 of the Board's Rules and Regulations, Series 8, as amended, which provides, inter alia, that employers shall post copies of the Board's official Notice of Election in conspicuous places at least three full working days prior to 12:01 a.m. of the day of the election, that failure to do so shall be grounds for setting aside the election whenever proper and timely objections are filed, and that an employer shall be estopped from objecting to nonposting or late posting of Notices unless it notifies the Regional Office at least 5 full working days prior to 12:01 a.m. of the day of the election that it has not received the Notices. You may wish to review the above rule in its entirety so that you are fully aware of its complete contents and the obligations imposed by it.

7/ The full first and last names and addresses of all eligible voters must be filed by the employer. North Macon Health Care Facility, 315 NLRB 359 (1994).

Classification Index Code: 420-2900-2921, 420-2900-2951, 420-4600-4617, 420-5000-5027
Date Issued: 4/19/02